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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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KAREN P. HEWITT
United States Attorney
DAVID M. McNEES
Special Assistant U.S. Attorney
California State Bar No. 216612
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893
Telephone: (619) 557-5979
E-mail: david.mcnees@usdoj.gov

Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ONE 2005 FORD F250 TRUCK,
CA LICENSE NO. 2606DDP,
VIN 1FTSW21P25EB71258,
ITS TOOLS AND APPURTENANCES,

Defendant.

Civil No. **07 CV 2176 BTM (LSP)**

COMPLAINT FOR
FORFEITURE

By way of complaint against the defendant,

ONE 2005 FORD F250 TRUCK, CA LICENSE NO. 2606DDP,
VIN 1FTSW21P25EB71258, ITS TOOLS AND APPURTENANCES,

(hereinafter "defendant vehicle"), the United States of America alleges:

1. This Court has jurisdiction over this action by virtue of the provisions of Title 28, United States Code, Sections 1345 and 1355, and Title 21, United States Code, Section 881.

2. Venue is proper in this district pursuant to Title 21, United States Code, 881(j) because the acts or omissions giving rise to the forfeiture occurred in this district.

3. On June 18, 2007, Murrieta officers were dispatched to the area of Vista Murrieta Road regarding a reported vandalism. When officers arrived, Bryan David Earnhart ("Earnhart") exited a 2005 Ford F250 truck and was detained on suspicion of vandalism. When Earnhart exited the truck he left the door open, and a prescription bottle was in the plain view of the officers. The bottle did not have

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1 a prescription label on it, and Earnhart did not have a prescription on his person. Earnhart was read his
2 Miranda rights. He thereafter admitted to purchasing the Xanax that was located in the prescription
3 bottle, and to furnishing the Xanax to an individual at a nearby party. Earnhart also admitted that
4 marijuana, cocaine, and cash were located within a safe inside his truck. Earnhart had \$1,630.00 in his
5 pocket, and \$270.00 was found inside the safe. Also inside the safe, officers located 16.1 grams of
6 marijuana and 3.5 grams of cocaine.

7 On June 19, 2007, a detective went to the Southwest detention facility to interview Earnhart.
8 During the interview, Earnhart admitted to selling marijuana to approximately ten customers about five
9 times per week for the past five months. Earnhart also admitted to being known on the street as
10 someone who sold cocaine. Earnhart also stated that he used his truck, the defendant vehicle, in each
11 of these transactions.

12 4. On and/or prior to June 18, 2007, the defendant vehicle was used and was intended to
13 be used to transport and/or to facilitate the transportation, and/or sale, and/or receipt, and/or possession,
14 and/or concealment of a controlled substance in violation of Title 21 of the United States Code, Section
15 881(a)(4).

16 5. Because of the aforementioned acts or uses alleged herein, the defendant vehicle is
17 subject to forfeiture pursuant to Title 21, United States Code, Section 881(a)(4).

18 6. The defendant vehicle is presently stored within the jurisdiction of this Court.

19 7. The value of the defendant vehicle is approximately \$26,500.00.

20 WHEREFORE, the United States prays that due process issue to enforce the forfeiture of the
21 defendant vehicle, and that due notice be given to all interested parties to appear and show cause why
22 said forfeiture should not be declared.

23 DATED: November 14, 2007

24 KAREN P. HEWITT
25 United States Attorney

26 *David McNeas*

27 DAVID M. McNEES
28 Special Assistant U.S. Attorney

VERIFICATION

I, Dean Henderson, hereby state and declare as follows:

1. I am a Special Agent with the United States Drug Enforcement Administration.

2. I have read the foregoing complaint and know its contents.

3. The information in the complaint was furnished by official Government sources. Based on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on 11/14/07.


DEAN HENDERSON, Special Agent
Drug Enforcement Administration

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

San Diego

DEFENDANTS

ONE 2005 FORD F250 TRUCK, CA LICENSE NO. 2606DDP
VIN 1FTSW21P25EB71258, ITS TOOLS AND APPURTENANCES
07 CV 2176 BTM (LSP)
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

SAUSA DAVID M. MCNEES
880 FRONT STREET, ROOM 6293
SAN DIEGO, CA 92101-8893
(619) 557-5979

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PT | DEF | | PT | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

TITLE 21, UNITED STATES CODE, SECTION 881(a)(4)

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product <input type="checkbox"/> 320 Assault, Libel & <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Liability <input type="checkbox"/> 360 Other Personal	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWM (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Exchange <input type="checkbox"/> 875 Customer Challenge <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic <input type="checkbox"/> 893 Environmental <input type="checkbox"/> 894 Energy Allocation <input type="checkbox"/> 895 Freedom of <input type="checkbox"/> 900 Appeal of Fee Under Equal Access to <input type="checkbox"/> 950 Constitutionality of <input type="checkbox"/> 890 Other Statutory
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product <input type="checkbox"/> 290 All Other Real	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removal from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY (See

JUDGE

Docket Number

DATE

11/14/07

David M. McNeas

SIGNATURE OF ATTORNEY OF RECORD

DAVID M. MCNEES, SAUSA